

Yeas : Messrs. Brashear, Burleson, Cooke, Campbell, Davis, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward and Wallace—20.

Nays : None.

A message was received from the House of Representatives, informing the Senate that the House had passed a bill making an appropriation for the payment of outstanding liabilities of the mission of Maj. R. S. Neighbors, to organize the counties of Presidio, El Paso, Worth and Santa Fe ; read first time.

On motion of Mr. Van Derlip, the rule was suspended, and bill read second time.

Mr. Brashear moved to amend by striking out "\$770," and inserting "\$1256 50. Adopted, and bill passed to a third reading.

The yeas and nays being called on the final passage of the bill, Mr. Grimes being excused from voting, stood thus :

Yeas : Messrs. Brashear, Burleson, Cooke, Campbell, Hart, Kinney, Latimer, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip and Ward—18.

Nays : Mr. Wallace—1.

On motion of Mr. Parker, the Senate adjourned until 9 o'clock Monday morning.

MONDAY, August 26, 1850.

Senate met—roll called—President *pro tem.* in the chair—
Senators present :

Messrs. Brashear, Cooke, Campbell, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward and Wallace—quorum present.

Journals of Saturday were read and adopted.

Mr. Taylor, one of the committee on engrossed bills, reported the bill to be entitled an act making an appropriation of money for the erection of a Fire-proof Land Office, correctly engrossed.

Mr. Wallace presented the informal petition of Charles Epps, which was on motion, laid on the table.

Mr. Latimer, chairman of the joint select committee on the part of the Senate, asked leave to report the following bills :

No. 1. A bill to provide for organizing the militia of the State,

and to suppress the insurrection existing in the counties of Worth and Santa Fe.

No. 2. A bill to levy and collect a direct tax, for special purposes.

No. 3. A bill to provide for assessing and collecting the direct tax, for special purposes, imposed by the act passed at the special session of the Legislature of Texas, convened on Monday the 12th of August, 1850, by proclamation of the Governor.

No. 4. A bill to require the Comptroller of Public Accounts to pass to the credit of the school fund, one-tenth of all amounts heretofore collected on account of revenue from direct taxation, and to pay the same into the Treasury of the State, subject to be drawn on account of any appropriation made for suppressing the insurrection existing in the counties of Worth and Santa Fe.

No. 5. A bill making appropriation for the purpose of carrying into effect a more perfect civil organization of the county of Santa Fe, and for suppressing rebellion.

No. 6. A bill to be entitled an act to alter and amend the first section of an act, approved March 20th, 1848, entitled an act concerning crimes and punishments, all of which were read first time.

A message was received from the House of Representatives, through their Chief Clerk, Mr. Hampton, transmitting the following bills :

A bill to be entitled an act to incorporate the Trinity Plank Road Company.

A bill requesting an increase in the mail service from Austin to Clarksville.

A bill to define the time of holding the courts in the 3d judicial district.

A bill to authorize and require the county courts to issue unconditional certificates, in certain cases.

A bill to be entitled an act to provide for the sale of public lots and other property, in and adjoining the city of Austin.

Also, transmitting a message and accompanying documents from the Governor, which are as follows :

EXECUTIVE DEPARTMENT, }
Austin, August 26, 1850. }

To the Honorable, the Legislature of Texas :

Gentlemen—A communication was received at this department, by the last mail, from the Hon. Daniel Webster, Secretary of State of the United States, in answer to one from the Executive of Texas, already laid before you, dated the 14th of June

last; and deeming it important in your deliberations, I take the earliest occasion to transmit the same to your honorable body.

P. H. BELL.

DEPARTMENT OF STATE, }
Washington, August 5, 1850. }

Sir: A letter addressed by you to the late President of the U. States, and dated on the 14th of June last, has, since his lamented decease, been transferred to the hands of his successor, by whom I am directed to address to you the following answer:

In that letter you say that, by the authority of the Legislature of Texas, the Executive of that State, in February last, despatched a special commissioner with full power and instructions to extend the civil jurisdiction of that State over the unorganized counties of El Paso, Worth, Presidio and Santa Fe, situated upon its northwestern limits, and that the commissioner has reported to you, in an official form, that the military officers employed in the service of the United States, stationed at Santa Fe, interposed adversely with the inhabitants to the fulfilment of his object, by employing their influence in favor of the establishment of a separate State government east of the Rio Grande, and within the rightful limits of the State of Texas. You also transmit a copy of the proclamation of Col. John Munroe, acting under the orders of the government of the United States, under the designation of civil and military Governor of the Territory of New Mexico, and respectfully request the President to cause you to be informed whether or not this officer has acted in this matter under the orders of his government, and whether his proclamation meets with the approval of the President of the United States.

In the events which have occurred, the President hardly knows whether your Excellency would naturally expect an answer to this letter from him. His predecessor in office, to whom it was addressed, and under whose authority and direction the proclamation of Col. Munroe was issued, is no more; and at this time that proclamation, whatever may be regarded as its true character, has ceased to have influence or effect. The meeting of the people of New Mexico by their representatives, which it invited, is understood to have taken place, although the government has as yet received no official information of it.

Partaking, however, in the fullest degree, in that high respect which the executive government of the United States always entertains towards the Governors and the governments of the States, the President thinks it his duty, nevertheless, to manifest that feeling of respect, by acknowledging and answering your letter.

And this duty, let me assure your Excellency, has been so long delayed only by uncontrollable circumstances, and is now performed at the earliest practicable moment, after the appointment of those heads of department, and their acceptance of office, with whom it is usual, on important occasions, for the President of the United States to advise.

In answer, therefore, to your first interrogatory—viz : whether Colonel Munroe, in issuing the proclamation referred to, acted under the orders of this government—the President directs me to state that Col. Munroe's proclamation appears to have been issued in pursuance or in consequence of an order or letter of instructions given by the late Secretary of War, under the authority of the late President, to Lieut. Col. McCall. Of this order, which bears date on the 19th of November, 1849, your Excellency was undoubtedly informed at the date of your letter. A full and accurate copy, however, is attached to this communication. Col. McCall is therein instructed that if the people of New Mexico, for whom Congress had provided no government, should manifest a wish to take any steps to establish a government for themselves, and apply for admission into the Union, it would be his duty, and the duty of others with whom he was associated, not to thwart, but to advance their wishes. This order does not appear to authorize any exertion of military authority, or of any official or even personal interference, to control or affect in any way the primary action of the people in the formation of a government, nor to permit any such interference by the subordinate officers. Col. McCall and his associates were not called upon to take a lead in any measures, or even to recommend anything as fit to be adopted by the people. Their whole duty was confined to what they might be able to perform, subordinate to the wishes of the people. In this matter it was evidently contemplated that they were to act as the agents of the inhabitants, and not as officers of this government. It must be recollected that the only government then existing in the territory was a *quasi* military government ; and as Congress had made no provision for the establishment of any form of civil government, and as the President doubtless believed that, under these circumstances, the people had a right to frame a government for themselves, and submit it to Congress for its approval, the order was a direction that the then existing military government should not stand in the way of the accomplishment of the wishes of the people, nor thwart those wishes, if the people entertained them, for the establishment of a free, popular, republican civil government, for their own protection and benefit. This is evidently the whole purpose and

object of the order. The military officer in command, and his associates, were American citizens, acquainted with the forms of civil and popular proceedings, and it was expected that they would aid the inhabitants of the territory, by their advice and assistance, in their proceedings for establishing a government of their own. There is no reason to suppose that Col. Munroe, an officer as much distinguished for prudence and discretion as for gallant conduct in arms, meant to act, or did act, otherwise than in entire subordination and subserviency to the will of the people among whom he was placed. He was not authorized to do, nor does the President understand him as intending to do, anything whatever in his military character, nor to represent in any way the wishes of the executive government of the United States.

To judge intelligently and fairly of these transactions, we must recall to our recollection the circumstances of the case as they then existed.

Previous to the war with Mexico, which commenced in May, 1846, and received the sanction of Congress on the 13th of that month, the territory of New Mexico formed a department or State of the Mexican republic, and was governed by her laws.—Gen. Kearny, acting under orders from this government, invaded this department with an armed force; the Governor fled at his approach, and the troops under his command dispersed; and Gen. Kearny entered Santa Fe, the capital, on the 18th of August, 1846, and took possession of the territory in the name of the United States. On the 22d of that month he issued a proclamation to the inhabitants, stating the fact that he had taken possession of Santa Fe, at the head of his troops, and announcing his “intention to hold the department with its original boundaries, (on both sides of the del Norte,) and under the name of New Mexico.” By that proclamation he promised to protect the inhabitants of New Mexico in their persons and property against their Indian enemies, and *all others*, and assured them that the United States intended to provide for them a free government, when the people would be called upon to exercise the rights of freemen in electing their own representatives to the Territorial Legislature. On the same day he established a Territorial constitution by an organic law which provided for executive, legislative, and judicial departments of the government; defined the right of suffrage, and provided for trial by jury; and at the same time established a code of laws. This constitution declared that “the country heretofore known as New Mexico shall be known hereafter and designated as the Territory of New Mexico, in the United States of America;” and the members of the lower house

of the legislature were apportioned among the counties established by the decree of the department of New Mexico, of June 17, 1844 ; which counties, it is understood, included all the territory over which Texas has lately attempted to organize counties and establish her own jurisdiction.

On the 22d of December, 1846, a copy of this constitution and code was transmitted by President Polk to the House of Representatives, in pursuance of a call on him by that body. In the message transmitting the constitution he says that "portions of it purport to establish and organize a *permanent* Territorial government over the territory, and to impart to its inhabitants political rights which, under the constitution of the United States, can be enjoyed permanently only by citizens of the United States.— These have not been approved and recognised by me. Such organized regulations as have been established in any of the conquered territories for the security of our conquest, for the preservation of order, for the protection of the rights of the inhabitants, and for depriving the enemy of the advantages of these territories, while the military possession of them by the forces of the United States continues, *will be recognized and approved.*"

Near four years have now elapsed since this *quasi* military government was established by military authority, and received, with the exceptions mentioned, the approval of President Polk. In the meantime, a treaty of peace has been concluded with Mexico, by which a boundary line was established that left this territory within the United States, thereby confirming to the United States by treaty what we had before acquired by conquest.— The treaty, in perfect accordance with the proclamation of Gen. Kearny, declared that, the Mexicans remaining in this territory, should be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to an enjoyment of all the rights of citizens of the United States, according to the principles of the constitution, "and in the meantime should be maintained and protected in the enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction." Thus it will be perceived that the authority of the United States over New Mexico was the result of conquest, and the possession held of it, in the first place, was of course a military possession. The treaty added the title by cession to the already existing title by successful achievements in arms. With the peace there arose a natural expectation that as early as possible there would come a civil government to supercede the military. But until some such form of government should come into existence, it was matter of

absolute necessity that the military government should continue, as otherwise the country must fall into absolute anarchy. And this has been the course generally in the practice of civilized nations, when colonies or territories have been acquired by war and their acquisition confirmed by treaty.

The military government, therefore, existing in New Mexico at the date of the order, existed there of inevitable necessity. It existed as much against the will of the executive government of the United States as against the will of the people. The late President had adopted the opinion that it was justifiable in the people of the territory, under the circumstances, to form a constitution of government without any previous authority conferred by Congress, and thereupon to apply for admission into the Union. It was under this state of things, and under the influence of these opinions, that the order of the 19th November, last, was given and executed in the manner we have seen. The order indicates no boundary and defines no territory, except by the name of New Mexico ; and, so far as that indicates anything, it referred to a known territory which had been organized under military authority, approved by the Executive, and left without remonstrance or alteration by Congress, for upwards of three years. It appears to the President that such an order could not have been intended to invade the rights of Texas.

Secondly, you ask whether the proclamation of Col. Munroe meets with the approval of the President of the United States. To determine this question, it is necessary to look at the *object* of the proclamation and to the *effect* of the proceedings had under it.

If the object was to assume the authority to settle the disputed boundary with Texas, then the President has no hesitancy in saying that such object does not meet his approbation, because he does not believe the executive branch of this government, or the inhabitants of New Mexico, or both combined, have any constitutional authority to settle that question : that belongs either to the judicial department of the General Government, or to the concurrent action, by agreement, of the legislative departments of the governments of the United States and Texas. But it has been sufficiently shown that Col. Munroe could have had no such object, and that his intention was merely to act in aid of the people in forming a State constitution to be submitted to Congress. Assuming, then, that such a constitution has been formed, what is its *effect* upon the disputed boundary ? If it compromises the rights of either party to that question, then it does not meet the President's approbation : for he deems it his duty to leave the set-

tlement of that question to the tribunal to which it constitutionally belongs. It is sufficient for him that this boundary is in dispute—that the territory east of the Rio del Norte seems to be claimed in good faith both by Texas and New Mexico, or rather, by the United States. Whatever might be his judgment in regard to their respective rights, he has no power to decide upon them, or even to negotiate in regard to them : and therefore, it would be improper for him to express any opinion. The subject-matter of dispute is between the United States and Texas, and not between the inhabitants of New Mexico and Texas. If those people should voluntarily consent to come under the jurisdiction of Texas, such consent would not bind the United States, or take away *their* title to the territory. So, on the other hand, if they should voluntarily claim the title for the United States, it would not deprive Texas of her rights. Whatever those rights might be, they can only be affected by her own acts, or a judicial decision. The State constitution formed by New Mexico can have no legal validity until it is recognised and adopted by the law-making power of the United States. Until that is done, it has no sanction, and can have no effect upon the rights of Texas or of the United States to the territory in dispute. And it is not to be presumed, that Congress will ever give its sanction to that constitution without first providing for the settlement of this boundary. Indeed, no government, either Territorial or State, can be formed for New Mexico without providing for settling this boundary. Hence he regards the formation of this State constitution as a mere nullity. It may be regarded, indeed, as a petition to Congress to be admitted as a State ; but until Congress shall grant the prayer of such petition by legal enactments, it affects the rights of neither party.

But, as it is the right of all to petition Congress for any law which it may constitutionally pass, this people were in the exercise of a common right when they formed their constitution with a view of applying to Congress for admission as a State ; and as he thinks the act can prejudice no one, he feels bound to approve of the conduct of Colonel Munroe in issuing the proclamation.

I am directed also to state that, in the President's opinion, it would not be just to suppose that the late President desired to manifest any unfriendly attitude or aspect towards Texas or the claim of Texas. The boundary between Texas and New Mexico was known to be disputed ; and it was equally well known that the executive government of the United States had no power to settle the dispute. It is believed that the executive power

has not wished—it certainly does not wish—to interfere with that question, in any manner whatever, as a question of title.

In one of his last communications to Congress—that of the 17th of June last—the late President repeated the declaration that he had no power to decide the question of boundary, and no desire to interfere with it, and that the authority to settle that question resided elsewhere. The object of the executive government has been, as I believe, and as I am authorized to say it certainly now is, to secure the peace of the country ; to maintain as far as practicable, the state of things as it existed at the date of the treaty ; and to uphold and preserve the rights of the respective parties as they were under the solemn guaranty of the treaty, until the highly interesting question of boundary should be finally settled by competent authority. This treaty, which is now a supreme law of the land, declares, as before stated, that the inhabitants shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion. It will of course be the President's duty to see that this law is sustained, and the protection which it guarantees made effectual ; and this is the plain and open path of executive duty, in which he proposes to tread.

Other transactions of a very grave character are alluded to and recited in your Excellency's letter. To those transactions I am now directed not more particularly to advert, because the only questions propounded by you respect the authority under which Col. Munroe acted, and the approval or disapproval of his proclamation. Your Excellency's communication and his answer will be immediately laid before Congress, and the President will take that occasion to bring to its notice the transactions alluded to above.

It is known to your Excellency that the questions growing out of the acquisition of California and New Mexico, and among them the highly important one of the boundary of Texas, have steadily engaged the attention of both houses of Congress for many months, and still engage it, with intense interest. It is understood that the Legislature of Texas will be shortly in session, and will have the boundary question also before it. It is a delicate crisis in our public affairs, not free, certainly, from possible dangers ; but let us confidently trust that justice, moderation and patriotism, and the love of the Union, may inspire such counsels, both in the government of the United States and that of Texas, as shall carry the country through these dangers, and bring it safely out of them all. And with renewed assurances of

the continuance of mutual respect and harmony in the great family of States,

I have the honor to be, with entire regard, your Excellency's most obedient servant,

DANIEL WEBSTER,
Secretary of State.

To his Excellency, P. H. BELL,
Governor of Texas.

Also, that the House had appointed a committee of five, consisting of Messrs. Williams, Johnson, Tarrant, Scott and Fields, a special committee, to whom they have referred that portion of the Governor's message relating to land titles west of the Nueces river.

A bill to be entitled an act to provide for the sale of public lots and other property in and adjoining the City of Austin; read first time.

On motion of Mr. Grimes, referred to the committee on Finance.

ORDERS OF THE DAY.

A bill making an appropriation for the *per diem* pay and mileage of the members and officers of the Legislature; read second time.

On motion of Mr. Grimes, the blank was filled with fifteen thousand dollars, and bill ordered to be engrossed.

Mr. Wallace moved the petition of sundry citizens of the town and county of San Augustine, be taken from the table and placed among the orders of the day.

Upon which, the yeas and nays were called, and stood thus:

Yeas: Messrs. Cooke, Campbell, Davis, Gage, Grimes, Parker, Portis and Wallace—8.

Nays: Messrs. Brashear, Burleson, Hart, Latimer, McRae, Moffett, Phillips, Robertson, Taylor, Truit, Van Derlip and Ward—12.

So the Senate refused to place the petition amongst the orders of the day.

A bill to provide for organizing the militia of the State, and to suppress the insurrection existing in the counties of Worth and Santa Fe, was on motion of Mr. Phillips, taken up.

SEC. 1. *Be it enacted by the Legislature of the State of Texas*, That the Governor be, and he is hereby authorized and required to call into the service of the State three thousand mounted volunteers, or any less number that he may deem re-

quisite, to enforce obedience to the laws and to suppress the insurrection existing in the counties of Worth and Santa Fe.

SEC. 2. That all volunteers enlisted under the provisions of this act, shall be required to furnish their own horses or mules, and necessary arms and equipments, and a pack-mule or horse for every mess of four or six men, and shall be required to perform a tour of duty for such time as the Governor may direct, not to exceed twelve months.

SEC. 3. That said volunteers shall be divided into regiments of ten companies each, said companies to consist of one hundred men each, rank and file; said companies shall have the privilege of electing their own company and regimental officers, and shall be governed by the rules and regulations prescribed for the military service of the late Republic of Texas.

SEC. 4. That said volunteers shall receive the same pay for their services, while in the employment of the State, as is by law allowed for the pay of mounted volunteers in the army of the United States.

SEC. 5. That the Governor shall appoint a Quarter-master and Commissary of Subsistence, who shall give bond and security for the faithful performance of the duties of their offices, and whose duty it shall be to contract for and furnish all necessary subsistence and supplies for the maintenance of said volunteers, and to perform such other duties as appertain to their respective offices.

SEC. 6. That if the number of three thousand volunteers should be deemed insufficient for the service contemplated in the first section of this act, that the Governor be authorized to call into the service an additional number, who shall be governed by the same rules and regulations, receive the same pay and be subject to the same duty as is in this act prescribed.

SEC. 7. That as soon as said volunteers shall be mustered into the service of the State, they shall immediately march to the counties of Worth and Santa Fe, to suppress the insurrection and rebellion existing in said counties, and the Governor shall be authorized to take command of said volunteers in person; *Provided*, that the march of said force may be delayed, if in the opinion of the Governor, circumstances may so require.

SEC. 8. That the Governor be, and he is hereby required to issue his proclamation for the election of militia officers throughout the State, and to effect a thorough organization of the same, under the provisions of the law now in force upon that subject, and that he shall be authorized to call into service any number he may deem necessary for the purposes contemplated in this act.

SEC. 9. That this act take effect from and after its passage.
Rule suspended, and bill read second time.

Mr. Wallace moved to refer the bill to the committee on Military Affairs.

Mr. Robertson moved the Senate go into a committee of the whole. Lost.

The question recurring on motion of Mr. Wallace to refer to committee on Military Affairs,

Mr. Gage moved the bill be read by sections. Carried.

Mr. Davis moved to add to the first section "or any other section of the State." Carried.

The second being read,

Mr. Wallace moved to strike out the words "or six." Carried.

Mr. Phillips moved to strike out "not to exceed twelve months." Lost.

The third section being read,

Mr. Wallace moved to strike out the word "companies," in fourth line, and insert "volunteers." Carried.

Mr. Wallace moved to insert after the word "company," in the fifth line, the word "battalion," and strike out the word "and," in the sixth line, and insert the words "brigade, division and." Carried.

Mr. Robertson moved to strike out in last line, the words "late Republic of Texas," and insert "United States." Lost.

Section four adopted.

Sections five and six adopted.

Mr. Davis moved to insert after the word "counties," the words "or to any other section of the State." Carried.

Mr. Wallace moved to strike out that clause of the section which authorizes the Governor to take command of the volunteers, in person.

Upon which, the yeas and nays were called and stood thus :

Yeas : Messrs. Burleson, Gage, Grimes, Hart, McRae, Moffett, Parker, Phillips, Taylor, Truit, Ward and Wallace—12.

Nays : Messrs. Brashear, Cooke, Campbell, Davis, Latimer, Portis, Robertson and Van Derlip—8. Carried.

Mr. Gage moved the Senate take recess for fifteen minutes. Carried.

Recess having expired,

On motion of Mr. Gage, the Senate proceeded to the House of Representatives for the purpose of going into the election of United States Senator.

IN JOINT SESSION.

Roll called—quorum present.

Nominations being in order,

Mr. Parker nominated the Hon. Thomas J. Rusk.

On the part of the House, Mr. Franklin nominated Blank.

The following Senators voted for Thomas J. Rusk :

Messrs. Brashear, Burleson, Cooke, Campbell, Gage, Grimes, Hart, Latimer, McRae, Moffett, Parker, Phillips, Robertson, Taylor, Truit, Van Derlip, Ward and Wallace.

Mr. Davis voted for Blank :

Mr. Portis voted for Mr. Wigfall.

On joint vote it appeared that Thomas J. Rusk, had received a majority of the votes of both Houses of the Legislature, and he was declared duly elected United States Senator for six years from and after the fourth day of March next.

The Senate having returned to their chamber, the bill which was before them when the recess took place, was taken up, and the 8th and 9th sections thereof, were read and adopted.

Mr. Davis moved to amend the caption of the bill, by adding thereto the words "or in any other section of the State."

Mr. Truit offered to amend by adding this additional section :

SEC. That all officers and soldiers who may engage in the contemplated military expedition to Santa Fe, shall be exempt from paying a State and County tax, and that their property of every description, be exempt from forced sales by execution or otherwise, during the time which they may be absent in such service.

Mr. Phillips moved to amend the amendment, by inserting after the word "tax," the words "during their term of service." Adopted.

The question upon the adoption of the amendment as amended, was put and carried.

On motion of Mr. Gage, the bill was made the order for tomorrow, 27th inst.

A message was received from the House, informing the Senate, that the House had concurred in the amendment of the Senate to a bill making an appropriation for the pay of the outstanding liabilities of R. S. Neighbors, &c.

On motion of Mr. Portis, a committee of three was appointed to act in conjunction with a like committee on the part of the House, upon the Governor's message, relating to the land titles west of the Nueces river.

Messrs. Portis, Davis and Latimer were appointed said committee.

On motion of Mr. Cooke, the Senate adjourned until 4 o'clock.

4 O'CLOCK, P. M.

Senate met—roll called—quorum present.

A bill to levy and collect a direct tax for special purposes.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That there shall be levied and collected, a special tax of per cent. on the several assessments, for the year eighteen hundred and fifty, to be used for purchasing supplies, furnishing transportation for the militia or volunteers that may be ordered out by the Governor to suppress rebellion against the State of Texas, and for the civil organization of the county of Santa Fé.

SEC. 2. *Be it further enacted*, That this act take effect from and after its passage.

Rule suspended, bill read second time.

Mr. Robertson moved that the bill be made the special order for Tuesday, 27th inst. Lost.

On motion of Mr. Parker, the bill was made the special order for Wednesday, the 28th inst.

A bill to provide for assessing and collecting the direct tax for special purposes, imposed by the act passed at the special session of the Legislature of Texas, convened on Monday the 12th day of August, 1850, by proclamation of the Governor.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the direct tax for special purposes required to be levied in the title of this act, shall be assessed by the several assessors and collectors in the State, by adding per cent. to the several assessments, made for the year eighteen hundred and fifty.

SEC. 2. *Be it further enacted*, That the said special tax shall be levied and collected in the same manner, and under the same rules and regulations as is prescribed for the assessment and collection of the tax by the act to provide for the assessment and collection of taxes, approved Feb. 11th, 1850.

SEC. 3. *Be it further enacted*, That this act take effect from and after its passage.

Rule suspended, bill read second time.

On motion of Mr. Campbell, made the special order for tomorrow.

A bill to require the Comptroller of Public Accounts to pass to the credit of the school fund, one-tenth of all amounts heretofore collected on account of revenue from direct taxation, and to pay

the same into the Treasury of the State, subject to be drawn on account of any appropriation made for suppressing the insurrection existing in the counties of Worth and Santa Fe.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the Comptroller of Public Accounts be, and he is hereby required to pass to the credit of the free common school fund, one tenth of all amounts heretofore received on account of revenue from direct taxation, and pay the same into the Treasury of the State, which shall remain as a charge against the State.

SEC. 2. *Be it further enacted*, That the sum so paid into the Treasury, shall be subject to be drawn therefrom on account of any appropriation made for suppressing the insurrection existing in the counties of Worth and Santa Fé.

SEC. 3. *Be it further enacted*, That when the Legislature shall have established schools in the several districts of this State, said amount thus appropriated and drawn, shall be returned to the school fund, with interest thereon at six per cent. per annum from the date said money was drawn from the Treasury, and the faith of the State is hereby pledged for the return of said money and interest.

SEC. 4. *Be it further enacted*, That this act shall take effect and be in force from and after its passage.

Rule suspended, bill read second time.

On motion of Mr. Gage, laid on the table until to-morrow.

A bill making appropriations for the purpose of carrying into effect a more perfect civil organization of the county of Santa Fe, and for suppressing rebellion.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the sum of _____ dollars, now in the Treasury, also, the proceeds arising from the sale of lots in the city of Austin, and the reserved lands on the town tract, directed to be sold, by an act entitled

, approved _____ 1850 ; also, the amount of

_____ directed to be raised by an act entitled an act to levy and collect a direct tax for special purposes, be, and the same is hereby appropriated and placed at the disposition of the Governor for the object, and to be applied to the purpose of carrying into effect laws providing for calling out the militia or volunteers to suppress rebellion against the State, and carrying into effect a more perfect civil organization of the county of Santa Fe.

SEC. 2. *Be it enacted*, That the Governor of the State be, and he is hereby authorized to anticipate the receipt of the funds at the Treasury, by making contracts for the purchase of supplies, and furnishing transportation, payable out of the proceeds arising

out of the sale of the lots and lands authorized by the Legislature, and out of the special direct tax.

SEC. 3. *Be it further enacted*, That should events occur, which in the opinion of his Excellency the Governor, render the collection of the said direct tax for special purposes, or any part thereof, unnecessary, he is hereby authorized to issue his proclamation suspending the collection thereof, or so much thereof as in his judgment he may deem proper.

SEC. 4. *Be it further enacted*, That this act take effect from and after its passage.

Rule suspended. bill read second time.

On motion of Mr. Van Derlip, laid on the table until to-morrow.

A bill to alter and amend the first section of an act, approved March 20th, 1848, entitled an act concerning crimes and punishments.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the first section of the above recited act, be so altered and amended as to read as follows : If any person or persons owing allegiance to the State of Texas, shall levy war, or aid and assist in levying war against said State, or shall produce or aid and assist in producing any rebellion or insurrection within the limits of said State, or shall incite others to make war against the State, or to produce a rebellion or insurrection therein, such person or persons, shall be deemed guilty of treason, and on conviction thereof, shall suffer death, or such other punishment as the jury trying the offender or offenders may impose, not less than imprisonment in the penitentiary, at hard labor, for the term of five years, or more.

SEC. 2. *Be it further enacted*, That upon the trial of any person for treason, it shall be necessary to a conviction, that the facts charged in the indictment, as constituting the offence, be proved by at least two witnesses to each overt act, or by the confession of the accused, in open court, or at any other time, when not under the influence of coercion, intimidation, threats or the promise of pardon ; and when the said confession is made elsewhere than in open court, it must be proved by at least two witnesses.

SEC. 3. *Be it further enacted*, That if any person or persons shall resist by the employment of force, and the aid of others, any officer of the State of Texas, in the discharge of his official duties, when duly notified of the same, such person or persons shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall suffer such punishment, not less than a fine of

dollars, nor greater than imprisonment in the penitentiary for _____ years, as the jury trying the offender or offenders, may impose.

SEC. 4. *Be it further enacted*, That the trial of all persons charged with treason, shall be had at the seat of government, or in some county of the State, other than that in which the offence is alleged to have been committed : And if any person charged with the crime of treason is, or may be committed for trial in any county, in which, from the tone of public opinion, a fair and impartial trial cannot be expected, it shall be the duty of the District Judge, presiding in such county, upon the application of the District Attorney, supported by affidavit, or such other information as may be satisfactory to him, to order the accused to be taken to the seat of government, or some other county of the State, free from objection, for trial,

SEC. 5. *Be it further enacted*, That the Governor be, and he is hereby authorized to appoint a Marshal for the State, who shall hold his office for the term of _____ years ; and who, before commencing his official duties, shall take the usual oath of office, and give bond with two or more securities, to be approved by the Governor, in the sum of _____ dollars, for the faithful discharge of the duties required of him by this act, which bond shall be made payable to the Governor and his successors in office, and be filed in the office of the Secretary of State.

SEC. 6. *Be it further enacted*, That said Marshal have the power to appoint as many deputies as he may deem necessary, and shall by himself or deputies, arrest upon the warrant of any judicial officer of the State, any person charged with the crime of treason, and to convey such person to the jail of the county in which is the seat of government, or such other county as may be designated in said warrant, there to be confined for trial until discharged by due course of law.

SEC. 7. *Be it further enacted*, That said Marshal have the power to summon all such assistance and guards as may be necessary to enable him to execute such warrants as may be placed in his hands, and for the safe conduct and security of prisoners under his charge ; which guard and assistants, while on actual duty, shall be entitled to _____ dollars per day each, for their services.

Rule suspended, bill read second time.

On motion of Mr. Gage, referred to the Judiciary committee.

Mr. Robertson introduced a bill making propositions to the United States.

WHEREAS, it is the opinion of the Legislature of the State of

Texas, that the people of said State, in order to provide for the payment of their public debt and to promote the peace and harmony of the Union, would assent for a fair equivalent, to a sale to the United States of a portion of their territory, to be laid off and detached from said State by suitable metes and boundaries; and,

WHEREAS, it is the opinion of the Legislature aforesaid, that any boundary South of 34° of north latitude would be irregular, inconvenient and seriously prejudicial to the best interest of the State; and,

WHEREAS, it is the opinion of the Legislature aforesaid, that it is right and proper to indicate in a definitive and solemn manner to the Government of the United States, the said opinion, and to propose what it is believed would secure the assent of the people of Texas, in the premises; Therefore,

Be it enacted by the Legislature of the State of Texas, That the following propositions shall be, and the same are hereby offered to the Congress of the United States, which, when agreed to by the said Congress of the United States, shall be binding and obligatory upon the United States and the State of Texas; *provided*, the said propositions be accepted by the United States Congress, on or before the first day of December, 1850.

1st. The State of Texas will agree that her boundary on the north shall commence at a point at which the meridian of 100° west from Greenwich is intersected by the parallel of $36^{\circ} 30'$ north latitude, and shall run from said point due west to the meridian of 103° west from Greenwich, thence her boundary shall run due south to the 34° of north latitude, thence on the said parallel of 34° north latitude to the Rio Bravo del Norte, and thence with the channel of said river to the Gulf of Mexico.

2d. The State of Texas cedes to the United States all her territory exterior to the territory and boundaries which she is to establish by the first article of this agreement.

3d. The State of Texas relinquishes all claim upon the United States for liability of the debts of Texas, and for compensation of indemnity for the surrender to the United States of her ships, forts, arsenals, custom-houses, custom-house revenue, arms and munitions of war and public buildings, with their sites, which became the property of the United States at the time of annexation.

4th. The United States, in consideration of said establishment of boundaries, cession of territory and relinquishment of claim, will pay to the State of Texas the sum of ten millions of dollars

in a stock bearing five per cent. interest per annum, and redeemable at the end of fourteen years, the interest payable half-yearly, at the Treasury of the State of Texas.

5th. That if the propositions in this act contained shall meet the acceptance and ratification of the Congress and Government of the United States, by the passage of an act in accordance therewith, then, and in that case, the Governor of this State shall upon due notification by the President of the United States of the passage of such an act, issue his proclamation of the fact, and submit therewith to the people of the State, to be voted upon by them, at the several precincts, the proposition contained in this act and in the act of the United States, giving forty days notice of the election, the returns of which vote shall be made to the Secretary of State, in accordance with the laws regulating general elections in this State, at the end of thirty days; and upon the opening and counting said returns, the result shall be proclaimed by the Governor, and if found to be in favor of the propositions, the same shall be certified by him to the President of the United States, and immediately thereafter, the Governor shall appoint some suitable person, as the agent of the State to receive from the Government of the United States, the stock bonds provided for in the first section of this act, requiring of said agent ample security for the faithful performance of his trust.

6th. That the State of Texas hereby assents and requires that releases to the United States of all claims against the State for the payment of which, the customs revenues were specially pledged, shall be made and registered at the Treasury of the United States, before the same, or any part thereof shall be paid by the State.

SEC. 2. That the Governor of this State shall immediately after its passage, transmit copies of this act, duly authenticated, under the great seal of the State, to our Senators and Representatives in Congress, to be by them laid before their respective bodies for their acceptance or rejection, and that this act be in force from and after its passage.

Read first time; rule suspended, bill read second time.

Mr. Wallace made the following motion:

Does the bill conflict with the resolution adopted by the Senate? Lost.

Mr. Phillips moved to read the bill by sections. Lost.

On motion of Mr. Gage, the bill was referred to the committee on the Judiciary.

Mr. Campbell introduced a bill to attach the counties of Den-

ton and Collin to the ninth judicial district, and to define the time of holding courts in the same. Read first time.

On motion of Mr. Van Derlip, the Senate adjourned until 9 o'clock, to-morrow morning.

TUESDAY, August 27, 1850.

Senate met—roll called—President *pro tem.* in the chair—
Senators present :

Messrs. Brashear, Cooke, Campbell, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward and Wallace—quorum present.

The journals of yesterday were read and adopted.

Mr. Ward asked leave to change his vote given on yesterday upon the amendment of Mr. Wallace, to strike out the clause in sec. 7, bill No. 1, from select joint committee, giving the command of the volunteers to the Governor, in person. Leave granted.

Mr. Moffett, chairman of the committee on Engrossed Bills ; reported a bill making an appropriation for the *per diem* pay and mileage of the members and officers of the Legislature at the extra session, convened August 12th, 1850, correctly engrossed.

Mr. Robertson introduced the following joint resolution :

A joint resolution on the subject of frontier protection and the President's message.

Mr. Portis moved to suspend the rule. Lost.

Mr. Davis introduced a bill to repeal an act to incorporate Rio Grande City, approved Jan. 10, 1850 ; read first time.

Mr. Latimer moved a suspension of the rule. Carried.

Bill read second time and ordered to be engrossed.

A message was received from the House of Representatives, through their Chief Clerk, Mr. Hampton, transmitting to the Senate the following bill, as having passed the House of Representatives, viz :

A bill supplementary to an act to perfect the land titles in Castro's colony, approved January 22, 1850.

Mr. Wallace moved that the petition of the citizens of the town and county of San Augustine, be taken from the table and placed among the orders of the day.

The yeas and nays were called, and stood as follows :